

# Cable Advisory Board Minutes

## June 28, 2007

### Board Members:

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Jerrod Jaeger, Laurie Lee, Art Zygielbaum

**Absent:** Herb Schimek (excused), Mary Herres (excused), Scott Young (excused)

**City Staff:** Diane Gonzolas, Connie Guillaume, Steve Huggenberger

**Time Warner:** Dick Cassidy, Ann Shrewsbury

Chair Jon Rehm called the meeting to order at 4:00 p.m. The Chair announced that a copy of the Nebraska Open Meetings Law was posted at the entrance to the room.

Board members introduced themselves.

### Approval of Minutes

Minutes from the special meeting of May 24, 2007 were read. Jaeger noted a correction; in the "Modifications to existing wording" section Jaeger was quoted as saying that he thought that adding the phrase "if technically feasible" to recommendation 6 of the Performance Evaluation would make it look like we were less willing to give up that recommendation; should have been "... more willing..." instead of "... less willing..."

Long moved approval of the minutes with that correction, Behlen seconded, motion passed 7-0. (Friedman arrived after the vote was taken so did not vote.)

Minutes from the last regular board meeting of February 1, 2007 were read. Long moved approval of the minutes with that correction, Behlen seconded, motion passed 7-0. (Friedman arrived after the vote was taken so did not vote.)

### Old Business

Rehm moved the following item:

In response to public questions regarding cable television competition in Lincoln, it is resolved that the Cable Advisory Board form a subcommittee to research and report back to the full committee in writing the issues related to cable television competition and competition from other sources in Lincoln. The subcommittee will address the following issues:

1. Whether the free market is, or will in the near future, providing or will provide Lincoln citizens with satisfactory price, customer service and choice in regards to cable television service?
2. If the free market is not providing or will not in the near future provide Lincoln citizens with satisfactory service, price and choice in cable television service, are there feasible options to change the current market for cable television in Lincoln?

Lee seconded the motion.

Rehm said that this was a followup on concerns expressed by the public that Lincoln needs cable competition. He said that he hopes such a study would determine whether the Lincoln market is truly competitive. He said that TWC has mentioned that other television outlets such as Dish Network and DirecTV are soliciting customers; he thinks we

should check into the issue and determine if those efforts are allowing a sufficient level of competition. If the CAB determines that there is not currently a sufficient level of competition, he would like to see us research the issue and determine what is needed, and if such efforts would cost more in tax expenditures or higher customer costs.

Long said that this is the Cable TV Advisory Board; he doesn't think it's appropriate to consider other types of television such as Dish Network when we're looking into competition.

Lee disagreed; she thinks that TV service through phone lines, over the air, and satellite services all lead to competition with coaxial cable television, and that the proposed subcommittee should consider those types of services when determining whether competition is sufficient.

Zygielbaum agreed; he is sensitive to Long's point, but thinks that we need to consider satellite dishes and other avenues of competition.

Friedman asked Huggenberger if this board has the authority to discuss satellite television. Huggenberger said that he thinks we'd be pushing the envelope. Friedman said that for that reason he agrees with Stuart and doesn't think the committee should include other types of services.

Lee said that a lot of people think that the TWC franchise agreement is exclusive; we need to remind people that it's not an exclusive franchise.

Rehm asked what we could do to address Friedman's concerns. Huggenberger suggested that we could inquire to the Mayor. Friedman made a friendly amendment that we submit to the Mayor the idea of setting up a committee; mover & seconder accepted the friendly amendment.

A couple of other friendly amendments were offered by Jaeger and Zygielbaum, with input from Lee, to tighten up the language and to give more direction to the committee, motion as amended became:

In response to public questions regarding cable television competition in Lincoln, it is resolved that the Cable Advisory Board ask the Mayor for approval to set up a subcommittee to research and report back to the full board in writing the issues related to cable television competition and competition from other sources in or potentially in Lincoln. The subcommittee will address the following issues:

1. Whether the free market is providing or will provide Lincoln citizens with satisfactory price, customer service and choice in regards to cable television service?
2. If the free market is not providing or will not in the near future provide Lincoln citizens with satisfactory service, price and choice in cable television service, are there feasible options to change the current market for cable television in Lincoln?
3. What are the obstacles to competition?
4. Can any obstacles be removed?
5. What are the consequences? For example, fee revenues and Public, Educational, Government ("PEG") Access.

Jaeger said that he doesn't think we're qualified to address the issue of fees. Lee said that some things are just out there, such as fees, and the committee needs to consider them.

Motion passed as amended, 8-0.

Friedman asked if there is some way to compare Lincoln with similar sized markets and get a baseline so we can see where we stand. Shrewsbury said that's difficult because each company has different payment options and channel selections. Friedman said that he still thinks it should be attempted; look at Lincoln's size in the Nielsen ratings, compare to markets of similar size, and see how we stack up. Zygielbaum said that if each board member takes two or three cities and looks into what cable services are available in those markets, we could get it done. Rehm said that might be something the subcommittee should do. Friedman disagreed; he thinks that we would want to get something like 20 or 25 cities for comparison, and thinks that would be easier for the full board to split up and do the contacting rather than having a smaller subcommittee do it.

Lee said that the FCC conducts annual comparisons; the subcommittee could look at that. Zygielbaum said that it would be interesting to know if some of those markets had cable overbuild. Lee said that overbuild is very rare, and the cost of overbuilding is fairly prohibitive.

Friedman moved, Jaeger seconded, that members of the Cable Advisory Board be asked to investigate the cable service provided in cities 93-113 in the Nielsen ratings (Lincoln being #103), and that the board members report their findings back in July.

Behlen made a friendly amendment to add some regional markets such as Omaha, Des Moines, Sioux City and Grand Island.

Lee said that she thinks looking up rates isn't going to help us determine anything, because rates vary depending on location and channel lineups. Zygielbaum disagreed; he thinks we need a baseline. Lee said that one of her classes did a study of Lincoln's cable market in comparison to nationwide competition, and they came away convinced that we're in a good competitive market.

Jaeger said we should talk about what questions will be asked if we do the survey. He suggested size of the market, cost of the service by tier, and a subjective estimate of the quality of each tier. Lee suggested that we should also find out how many PEG (Public, Educational, & Government) access channels are available in the markets that we contact.

Shrewsbury said that determining cost is difficult; many companies offer bundled pricing which includes Internet or phone service along with television service. She said that the top 60 channels nationally include shopping channels and special interest channels. Zygielbaum asked if we could get a count of which channels people watch most often; Shrewsbury said that information is not available. Huggenberger said that we need to stay away from considering bundled costs.

Behlen called the question. Motion to terminate debate passed 8-0; Friedman's motion to do the study passed 8-0.

Long said that this spring while we've been considering the Navigator and related issues, other cable-related items have been building up and we need to get at them. He asked about the status of access channels. Gonzolas said that Bill Luxford has been working with UN-L to get equipment updated for an educational access studio at the university. She said that Luxford would be willing to come talk to the board at a future meeting about that and other access issues, if we want him to. Huggenberger said that most of the franchise fees for the first five years has been spent.

Zygielbaum brought up the issue of the customer bill of rights, which was part of our performance review. It will need to be slightly rewritten for Lincoln; will consider it at a future meeting.

### **Adjournment**

Behlen moved to adjourn, Lee seconded, motion passed 8-0. Meeting adjourned at 5:30 p.m.

Next meeting Thursday, July 26, 4-6 p.m., Mayor's conference room. Mayor Beutler is scheduled to attend the meeting.

Respectfully submitted,

Jim Johnson, Secretary